

1990), and as carried out by an Executive Order 13222 of August 17, 2001, that prohibits the issuance of new licenses for exports to the sanctioned entity of MTCR Annex equipment or technology controlled pursuant to the Export Administration Act of 1979.

[70 FR 10867, Mar. 7, 2005, as amended at 71 FR 14099, Mar. 21, 2006; 72 FR 25196, May 4, 2007]

**§ 744.20 License requirements that apply to certain sanctioned entities.**

BIS may impose, as foreign policy controls, export, reexport, and transfer (in-country) license requirements and set licensing policy with respect to certain entities that have been sanctioned by the State Department. Such license requirements and policy are in addition to those imposed elsewhere in the EAR. License requirements and licensing policy may be imposed pursuant to this section even when the sanction and the legal authority under which the State Department imposed the sanction do not require or authorize the imposition of any license requirement or licensing policy. License requirements and licensing policy will be imposed pursuant to this section by adding an entity to the Entity List in accordance with paragraphs (a), (b), and (c) of this section.

(a) *General requirement.* Certain entities that have been sanctioned by the State Department are listed in supplement No. 4 to this part (the Entity List) with a reference to this section. A license is required, to the extent specified on the Entity List, to export, reexport, or transfer (in-country) any item to such entities.

(b) *License Exceptions.* No license exception may be used to export, reexport, or transfer (in-country) to such entities unless specifically authorized on the Entity List.

(c) *Licensing policy.* Applications to export, reexport, or transfer (in-country) to such entities will be reviewed according to the licensing policy set forth on the Entity List.

[70 FR 10867, Mar. 7, 2005, as amended at 74 FR 45992, Sept. 8, 2009]

**§ 744.21 Restrictions on certain military end-uses in the People's Republic of China (PRC).**

(a) *General prohibition.* In addition to the license requirements for items specified on the Commerce Control List (CCL), you may not export, reexport, or transfer any item subject to the EAR listed in supplement No. 2 to part 744 to the PRC without a license if, at the time of the export, reexport, or transfer, you know, meaning either:

(1) You have knowledge, as defined in § 772.1 of the EAR, that the item is intended, entirely or in part, for a “military end-use,” as defined in paragraph (f) of this section, in the PRC; or

(2) You have been informed by BIS, as described in paragraph (b) of this section, that the item is or may be intended, entirely or in part, for a “military end-use” in the PRC.

(b) *Additional prohibition on those informed by BIS.* BIS may inform you either individually by specific notice, through amendment to the EAR published in the FEDERAL REGISTER, or through a separate notice published in the FEDERAL REGISTER, that a license is required for specific exports, reexports, or transfers of any item because there is an unacceptable risk of use in or diversion to “military end-use” activities in the PRC. Specific notice will be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by written notice within two working days signed by the Deputy Assistant Secretary for Export Administration or the Deputy Assistant Secretary's designee. The absence of BIS notification does not excuse the exporter from compliance with the license requirements of paragraph (a) of this section.

(c) *License exception.* Despite the prohibitions described in paragraphs (a) and (b) of this section, you may export items subject to the EAR under the provisions of License Exception GOV set forth in §§ 740.11(b)(2)(i) and (ii) of the EAR.

(d) *License application procedure.* When submitting a license application pursuant to this section, you must state in the “additional information” block of the application that “this application is submitted because of the

license requirement in § 744.21 of the EAR (Restrictions on Certain Military End-uses in the People's Republic of China).” In addition, either in the additional information block or in an attachment to the application, you must include all known information concerning the military end-use of the item(s). If you submit an attachment with your license application, you must reference the attachment in the “additional information” block of the application.

(e) *License review standards.* (1) Applications to export, reexport, or transfer items described in paragraph (a) of this section will be reviewed on a case-by-case basis to determine whether the export, reexport, or transfer would make a material contribution to the military capabilities of the PRC and would result in advancing the country's military activities contrary to the national security interests of the United States. When it is determined that an export, reexport, or transfer would make such a contribution, the license will be denied.

(2) Applications may be reviewed under chemical and biological weapons, nuclear nonproliferation, or missile technology review policies, as set forth in §§ 742.2(b)(4), 742.3(b)(4) and 742.5(b)(4) of the EAR, if the end-use may involve certain proliferation activities.

(3) Applications for items requiring a license for other reasons that are destined to the PRC for a military end-use also will be subject to the review policy stated in paragraph (e)(1) of this section.

(f) In this section, “military end-use” means: incorporation into a military item described on the U.S. Munitions List (USML) (22 CFR part 121, International Traffic in Arms Regulations); incorporation into a military item described on the Wassenaar Arrangement Munitions List (as set out on the Wassenaar Arrangement Web site at <http://www.wassenaar.org>); incorporation into items listed under ECCNs ending in “A018” on the CCL in supplement No. 1 to part 774 of the EAR; or for the “use”, “development”, or “production” of military items described on the USML or the IML, or items listed under ECCNs ending in “A018” on the CCL. “Military end-use” also means

“deployment” of items classified under ECCN 9A991 as set forth in supplement No. 2 to part 744.

NOTE TO PARAGRAPH (f) OF THIS SECTION: As defined in part 772 of the EAR, “use” means operation, installation (including on-site installation), maintenance (checking), repair, overhaul and refurbishing; “development” is related to all stages prior to serial production, such as: design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, layouts; and “production” means all production stages, such as: product engineering, manufacturing, integration, assembly (mounting), inspection, testing, quality assurance.

For purposes of this section, *operation* means to cause to function as intended; *installation* means to make ready for use, and includes connecting, integrating, incorporating, loading software, and testing; *maintenance* means performing work to bring an item to its original or designed capacity and efficiency for its intended purpose, and includes testing, measuring, adjusting, inspecting, replacing parts, restoring, calibrating, overhauling; and *deployment* means placing in battle formation or appropriate strategic position.

[72 FR 33657, June 19, 2007, as amended by 72 FR 43531, Aug. 6, 2007; 73 FR 49329, Aug. 21, 2008; 73 FR 58037, Oct. 6, 2008]

**§ 744.22 Restrictions on exports, reexports and transfers to persons whose property and interests in property are blocked pursuant to Executive Orders 13310, 13448 or 13464.**

Consistent with Executive Order 13310 of July 28, 2003, Executive Order 13448 of October 18, 2007 and Executive Order 13464 of April 30, 2008, BIS maintains restrictions on exports, reexports, and transfers to persons whose property and interests in property are blocked pursuant to Executive Orders 13310, 13448 or 13464. These persons include individuals and entities listed in the Annexes to Executive Orders 13310, 13448 and 13464, as well as other persons whose property and interests in property are blocked pursuant to those orders.

(a) *License Requirements.* (1) A license requirement applies to the export, reexport, or transfer of any item subject to the EAR (except for agricultural